

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CHRISTOPHER DUNCAN,

Petitioner,

v.

CALVIN JOHNSON, *et al.*,

Respondents.

Case No. 2:22-cv-01257-MMD-NJK

DISMISSAL ORDER

This habeas matter is before the Court on Petitioner Christopher Duncan's failure to comply with this Court's September 15, 2022 order to show cause (ECF No. 5 ("Order")).

Duncan initiated this case by filing a petition for writ of habeas corpus under 28 U.S.C. § 2254. (ECF No. 1-1 ("Petition").) The Court completed an initial review under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. (ECF No. 5.) In that initial review, the Court determined that the Petition was second or successive. (*Id.* at 4.) As such, the Court ordered Duncan to show cause as to why the Petition should not be dismissed without prejudice because the Court lacked jurisdiction. (*Id.* at 5.) The Court warned that if Duncan did not respond to the Order by October 15, 2022, the Petition would be dismissed without prejudice and without further advance notice. (*Id.*) That October 15, 2022 deadline has passed, and to date, Duncan has not filed a response to the Order, requested an extension of time, or taken any other action to prosecute this case.

1 It is therefore ordered that this action is dismissed without prejudice based on
2 Duncan's failure to comply with the Court's Order (ECF No. 5).

3 It is further ordered that Duncan is denied a certificate of appealability, as jurists of
4 reason would not find dismissal of the petition for the reasons stated herein to be
5 debatable or wrong.

6 It is further ordered that the Clerk of Court is instructed to add Nevada Attorney
7 General Aaron D. Ford as counsel for Respondents. No response is required from
8 Respondents other than to respond to any orders of a reviewing court.

9 It is further ordered that, pursuant to Rule 4 of the Rules Governing Section 2254
10 Cases, the Clerk of Court will file the Petition (ECF No. 1-1) and informally serve the
11 Nevada Attorney General with the Petition (ECF No. 1-1), this order, and all other filings
12 in this matter by sending a notice of electronic filing to the Nevada Attorney General's
13 office.

14 It is further ordered that the Clerk of Court enter final judgment accordingly,
15 dismissing this action without prejudice, and close this case.

16 DATED THIS 19th Day of October 2022.

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MIRANDA M. DU
20 UNITED STATES DISTRICT JUDGE
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